

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

October 11, 2005

7:00 P.M.

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I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

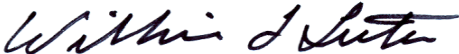
K. BOARD REQUESTS AND DIRECTIVES

L. ADJOURNMENT

MEMORANDUM

DATE: October 11, 2005
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Fire Prevention Week

The Fire Department provides fire prevention and safety programs throughout the year. Each October, fire departments across the nation focus attention to Fire Prevention Week. Staff recommends adoption of the attached resolution recognizing October 9-15, 2005, as "Fire Prevention Week" in James City County. In cooperation with the National Fire Protection Association (NFPA), the theme for this year's Fire Prevention Week is "Use Candles with Care." Home candle fires have risen steadily over the last decade.



William T. Luton

WTL/gs
fireprevwk.mem

Attachment

RESOLUTION

FIRE PREVENTION WEEK

WHEREAS, the fire service endeavors to prevent fire and also prevent injuries and death as a result of fire; and

WHEREAS, James City County Fire Department promotes fire safety in the community; and

WHEREAS, the week of October 9-15, 2005, has been identified as Fire Prevention Week by the President of the United States; and

WHEREAS, the National Fire Protection Association sponsors Fire Prevention Week in cooperation with local fire departments; and

WHEREAS, the Fire Department has planned fire prevention programs for school-age children, guests, and residents of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize the week of October 9-15, 2005, as Fire Prevention Week and calls this observance to the attention of its citizens.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

fireprevwk.res

MEMORANDUM

DATE: October 11, 2005
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Grant Award - Commonwealth Attorney - Virginia Domestic Violence Victim Fund - \$50,000

The Commonwealth Attorney has been awarded an 18-month \$50,000 grant from the Virginia Domestic Violence Victim Fund through the State Department of Criminal Justice Services. The grant will help fund the personnel costs of a paralegal to assist in the prosecution of misdemeanors and felonies involving domestic violence, sexual abuse, stalking, and family abuse. The rest of the costs of the position, approximately \$16,000, will be contributed by the Commonwealth Attorney from funds authorized by the State Compensation Board for part-time salaries.

The attached resolution appropriates these funds to the Special Projects/Grants Fund and authorizes the creation of a full-time temporary position through December 31, 2006.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gs
cwattygrant.mem

Attachment

RESOLUTION

GRANT AWARD - COMMONWEALTH ATTORNEY -

VIRGINIA DOMESTIC VIOLENCE VICTIM FUND - \$50,000

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded an 18-month \$50,000 grant from the Virginia Domestic Violence Victim Fund through the State Department of Criminal Justice Services; and

WHEREAS, this grant would help fund the personnel costs of a paralegal to assist in the prosecution of misdemeanors and felonies involving domestic violence, sexual abuse, stalking, and family abuse through December 31, 2006; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates the following to the Special Projects/Grants Fund:

Revenues:

DCJS Domestic Violence Grant	\$50,000
Contribution - Commonwealth Attorney	<u>16,000</u>
	<u>\$66,000</u>

Expenditure:

Domestic Violence Prosecutor Personnel Costs	<u>\$66,000</u>
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BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the creation of a full-time temporary Paralegal position through December 31, 2006, for the purposes described above.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

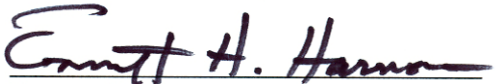
cwattygrant.res

MEMORANDUM


DATE: October 11, 2005
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Department of Motor Vehicles Mini-Grant Awards - \$1,500

The Virginia Department of Motor Vehicles (DMV) has awarded the James City County Police Department a mini-grant in the amount of \$1,500. The grant requires no matching funds. The grant will fund the purchase of traffic-related law enforcement equipment. The Department will be purchasing four Alco-sensors in support of DMV's traffic enforcement initiatives.

Staff recommends adoption of the attached resolution to appropriate funds.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
dmvgrantawards.mem

Attachment

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES MINI-GRANT AWARD - \$1,500

WHEREAS, the Department of Motor Vehicles has approved a Mini-Grant in the amount of \$1,500 to the Police Department for traffic-related law enforcement equipment; and

WHEREAS, the grant requires no matching funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments to the Special Projects/Grants Fund.

Revenue:

DMV – Mini-Grant	<u>\$1,500</u>
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Expenditure:

DMV – Mini-Grant	<u>\$1,500</u>
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Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

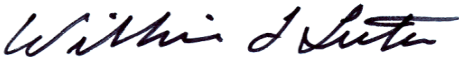
dmvgrantawards.res

MEMORANDUM

DATE: October 11, 2005
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Appropriation of Funds - State Homeland Security Program (SHSP) Grant


The Virginia Department of Emergency Management has advised that a grant application in the amount of \$61,897 has been awarded to the Emergency Management Division of the James City County Fire Department. The grant requires no matching funds. The grant will allow for the purchase of first responder equipment to develop better preparedness, response, and recovery from potential acts of terrorism. The equipment will be shared by the Police and Fire departments of James City County.

Staff recommends adoption of the attached resolution to accept the grant and appropriate the funds to the Special Projects/Grants Fund.



William T. Luton

CONCUR:



Sanford B. Wanner

WTL/gs
SHSPgrant.mem

Attachment

RESOLUTION

APPROPRIATION OF FUNDS - STATE HOMELAND SECURITY PROGRAM (SHSP) GRANT

WHEREAS, James City County has received a grant from the Virginia Department of Emergency Management in the amount of \$61,897; and

WHEREAS, the grant will allow for the purchase of first responder equipment to develop better preparedness to prevent, respond, and recover from potential acts of terrorism; and

WHEREAS, the grant reporting period is from July 1, 2005, through January 31, 2007, thus allowing any unexpended funds on June 30, 2006, to be carried over into the next James City County fiscal year; and

WHEREAS, the grant will provide needed equipment for the Police and Fire departments of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and the following budget amendments and changes in appropriations to the Special Projects/Grants Fund:

Revenue:

VDEM - State Homeland Security Program	<u>\$61,897</u>
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Expenditure:

VDEM - State Homeland Security Program	<u>\$61,897</u>
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Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

SHSPgrant.res

MEMORANDUM

DATE: October 11, 2005
TO: The Board of Supervisors
FROM: Stephanie Ahrendt, Purchasing Director
SUBJECT: Contract Awards - Annual Architectural Services

A Request for Proposal (RFP) was solicited from qualified architectural firms to establish contracts for professional architectural services. The two firms listed below submitted proposals for consideration:

1. Hopke & Associates, Inc., Williamsburg, Virginia
2. Hening-Vest-Covey-Chenault Architectural Corporation, Richmond, Virginia

Interested firms responded to the RFP by describing their interest, qualifications, firm's capability and experience in performing similar work. Staff members from General Services and Purchasing evaluated the proposals, conducted interviews and selected the two firms to provide the architectural services. Rate schedules were negotiated with the two firms. These schedules will be used to calculate the cost for individual projects performed under these annual contracts. These contracts have an initial term of one year with two additional one-year options available to the County.

Staff recommends approval of the attached resolution awarding contracts to the two firms listed above.


Stephanie Ahrendt

CONCUR:

Suzanne R. Mellen

SA/gb
ArchServ.mem

Attachment

RESOLUTION

CONTRACT AWARDS - ANNUAL ARCHITECTURAL SERVICES

WHEREAS, the Request for Proposals (RFPs) has been advertised and evaluated for annual architectural services; and

WHEREAS, the two firms listed below submitted proposals and were determined to be qualified to provide the required architectural services specified in the RFPs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual architectural services to the two firms listed below:

1. Hopke & Associates, Inc., Williamsburg, Virginia
2. Hening-Vest-Covey-Chenault Architectural Corporation, Richmond, Virginia

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

ArchServ.res

MEMORANDUM

DATE: October 11, 2005

TO: The Board of Supervisors

FROM: Jason Purse, Planner

SUBJECT: Reduced Street Width - Windmill Meadows

Mr. Henry Stephens of Associated Developers has submitted the attached request for Board action on behalf of the Windmill Meadows subdivision. Specifically, Mr. Stephens is requesting Board approval of a request to the Virginia Department of Transportation (VDOT) for a narrower street width along the main, public "spine" road (John Jackson Drive) for the subdivision, located off Route 614, Centerville Road. The Board of Supervisors approved a rezoning for 78 single-family dwelling units on May 10, 2005. The location of the public "spine" road is shown on the attached site development plan.

VDOT has a basic requirement that public roads be a minimum of 36 feet from curb to curb. Section 24 VAC 30-91-110 of the VDOT's *Subdivision Street Requirements* (2005) permits reduced residential curb and gutter roadway widths. These reductions must be specifically requested by the Board of Supervisors. VDOT further states that the width of the public road may be reduced to 30 feet if requested in writing by the Board of Supervisors.

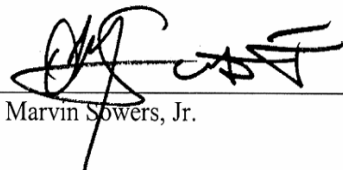
On the 25th of April, 2000 the Board adopted the Reduced Street Width Policy resolution, which has been included in the Reading File. To meet our policy, the applicant is responsible for meeting a number of conditions, which include providing street trees, roll top curbs, sidewalks, no on-street parking signs, larger front setbacks, additional off-street parking, and fire hydrant placement. These improvements have been provided on the development plan, which is currently under review.

Section 24 VAC 30-91-110 also requires a statement to demonstrate the Board commitment to enforce sufficient off-street parking on residential lots when reduced roadway widths are requested. As a minimum, no less than three spaces exclusive of garages or similar car shelters shall be provided in the proximity of the dwelling unit they are intended to serve. Included in the request from the developer is a statement that a minimum of three additional off-street parking spaces per dwelling unit will be provided. This will be reflected on the construction plan and plat.

Staff supports the narrower street width, as it would reduce the amount of clearing and impervious area for this project, and recommends that the Board approve the attached resolution.

Jason Purse

CONCUR:



O. Marvin Sowers, Jr.

JP/gb
WindmillMeadows.mem

Attachments

RESOLUTION

REDUCED STREET WIDTH – WINDMILL MEADOWS

WHEREAS, the required width of public streets located within subdivisions is set forth in the Virginia Department of Transportation’s (“VDOT”) Subdivision Street Design Guide (the “Guide”); and

WHEREAS, the Guide requires that the streets in the Windmill Meadows subdivision be 36 feet in width; and

WHEREAS, in certain circumstances, the Guide allows for reductions in the required pavement width; and

WHEREAS, the developer of Windmill Meadows has requested a six-foot reduction in the required pavement width along John Jackson Drive from 36 feet to 30 feet, in order to reduce the amount of pavement and enhance subdivision design; and

WHEREAS, the developer has met all the requirements, as shown on the development plan S-091-05, in accordance with the Reduced Street Width Policy adopted by the James City County Board of Supervisors on April 25, 2000; and

WHEREAS, VDOT has agreed to the proposed reduction; and

WHEREAS, VDOT may not approve a request for a reduction in subdivision street pavement width without a written request by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests that VDOT approve a six-foot reduction in the required street width along John Jackson Drive in Windmill Meadows from 36 to 30 feet.

BE IT FURTHER RESOLVED that the County will require off-street parking in Windmill Meadows in conformance with Section 24 VAC-30-91-110 of the VDOT’s *Subdivision Street Requirements*.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

WindmillMeadows.res



associated developers incorporated
land development, management, planning, & investment

September 27, 2005

Mr. Jason Purse
Planning Department
James City County
101 Mounts Bay Road
Williamsburg, VA 23185

Re: Windmill Meadows

Dear Mr. Purse:

On behalf of Windmill Meadows, LLC, I am requesting a reduction of the street width requirement from 36 feet to 30 feet face of curb to face of curb for the section of John Jackson Drive between Windmill Lane and Jeremial Wallace Lane. The purpose of the request is to allow continuity of design with the remainder of John Jackson Drive which is 30 feet wide, encourage reduced speeds in the subdivision and reduce storm water run off from the street. We understand and agree that at least 3 parking spaces will be provided exclusive of the garage on the lots affected by this change. These lots are 22-26 and 60-65. We have spoken to a representative of VDOT and understand VDOT will support the reduction.

Please call me if there is anything else required to obtain approval of the request.

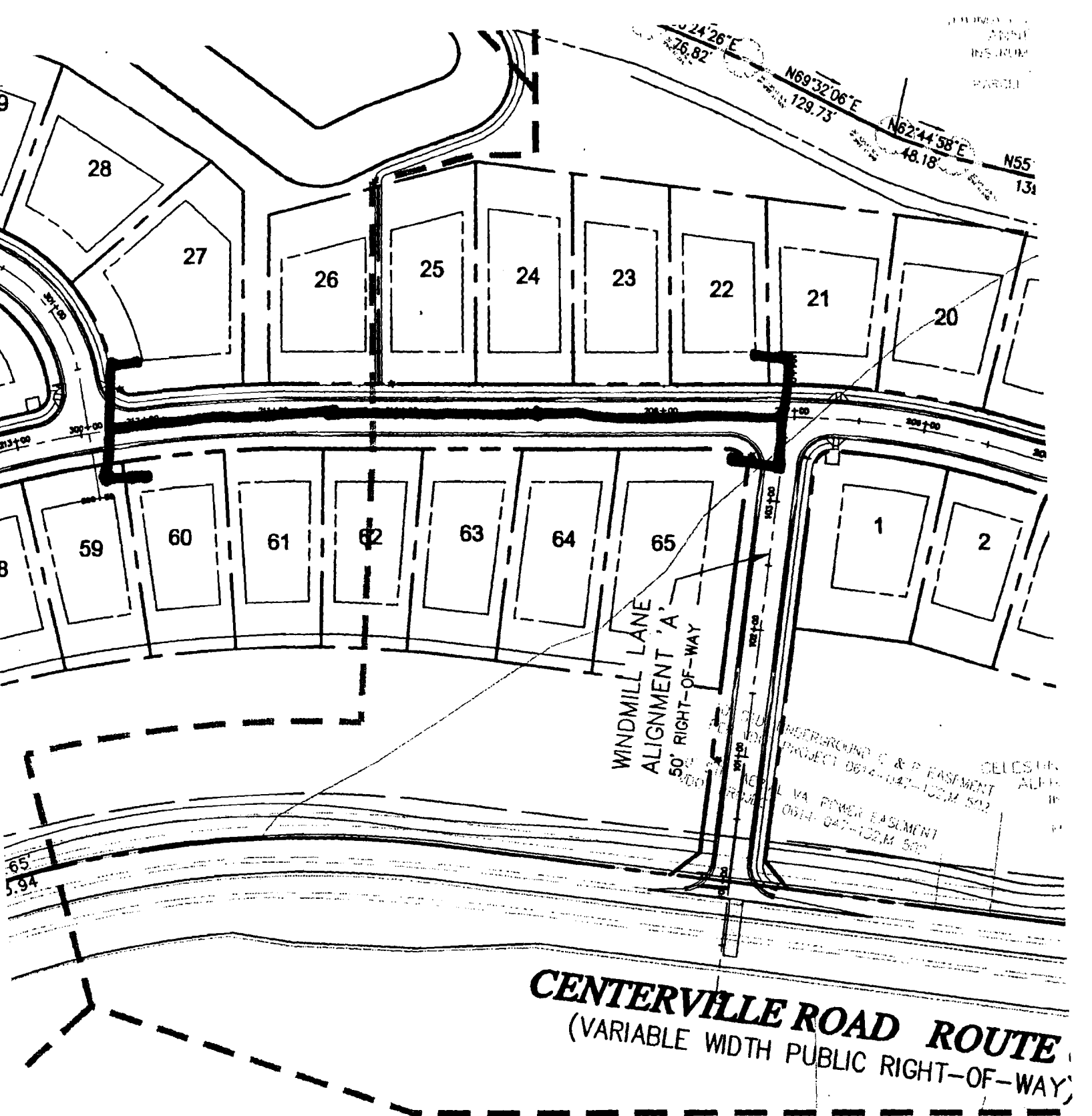
Sincerely,

Henry H. Stephens
President

Copy to: Neville Reynolds, VHB
Lawrence Beamer

5300 Mercury Boulevard
Drawer 18 Parkview Station
Newport News, VA 23605
Phone: (757) 838-2739
Fax: (757) 838-6337

759 Johnnie Dodds Blvd., Suite B
Mt. Pleasant, SC 29464
Phone: (843) 971-9558
Fax: (843) 971-4918



* Street Width Reduction Only for Bracketed Section

MEMORANDUM

DATE: October 11, 2005
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Intention to Reimburse the Costs of Certain Expenditures

Attached are three resolutions that establish, for the purposes of the Internal Revenue Service, that expenditures on three projects would be eligible to be reimbursed by a tax-exempt financing sometime in the near future. The three projects are:

- ◆ A new elementary school;
- ◆ A new middle school; and
- ◆ An addition to Stonehouse Elementary School.

These resolutions do not commit the County in any way.

Staff recommends approval of the attached resolutions.

John E. McDonald

JEM/nb
ReimbExpend.mem

Attachment

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES –
NEW ELEMENTARY SCHOOL

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the acquisition of land and the construction of a new elementary school for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia (the "Board"), that:

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$25,000,000.
3. This Resolution shall take effect immediately upon its adoption.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October 2005.

reimbelemsch.res

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of James City County, Virginia, hereby certifies that the foregoing constitutes a true, correct, and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on the 11th day of October, 2005 and during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
M. Anderson Bradshaw		
Michael J. Brown, Chair		
Bruce C. Goodson		
Jay T. Harrison, Sr.		
John J. McGlennon		

WITNESS, MY HAND and the seal of the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

Clerk, Board of Supervisors of
James City County, Virginia

(SEAL)

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reimbelemsch.res

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES – NEW MIDDLE SCHOOL

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the acquisition of land and the construction of a new middle school for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia (the "Board"), that:

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$35,000,000.
3. This Resolution shall take effect immediately upon its adoption.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October 2005.

reimbmiddle.sch.res

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of James City County, Virginia, hereby certifies that the foregoing constitutes a true, correct, and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on the 11th day of October, 2005 and during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
M. Anderson Bradshaw		
Michael J. Brown, Chair		
Bruce C. Goodson		
Jay T. Harrison, Sr.		
John J. McGlennon		

WITNESS, MY HAND and the seal of the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

Clerk, Board of Supervisors of
James City County, Virginia

(SEAL)

#1319806v1
215964.tba

reimbmiddlech.res

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES – EXPANSION OF
STONEHOUSE ELEMENTARY SCHOOL

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the expansion of Stonehouse Elementary School for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia (the "Board"), that:

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$5,000,000.
3. This Resolution shall take effect immediately upon its adoption.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October 2005.

reimstonehsch.res

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of James City County, Virginia, hereby certifies that the foregoing constitutes a true, correct, and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on the 11th day of October, 2005 and during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
M. Anderson Bradshaw		
Michael J. Brown, Chair		
Bruce C. Goodson		
Jay T. Harrison, Sr.		
John J. McGlennon		

WITNESS, MY HAND and the seal of the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

Clerk, Board of Supervisors of
James City County, Virginia

(SEAL)

#1319806v1
215964.tba

reimstonehsch.res

MEMORANDUM

DATE: October 11, 2005
TO: The Board of Supervisors
FROM: Suzanne R. Mellen, Director of Budget and Accounting
SUBJECT: Budget Amendment - Fire Training Center - \$56,000

The James City County Fire Department has utilized space rent-free on the campus of Eastern State Hospital for nearly ten years for its Fire Training Center. Eastern State Hospital has notified the County that this agreement will terminate December 31, 2005. A rental space in McLaws Circle has been located and is suitable for a temporary relocation of the Fire Training Center. Rent and relocation costs for the remainder of FY 2006 are estimated at \$56,000.

Staff recommends approval of the attached resolution transferring \$56,000 from Operating Contingency to the Fire Department's Operating Budget for these costs.

Suzanne R. Mellen

SRM/gs
firebudget.mem

Attachment

RESOLUTION

BUDGET AMENDMENT - FIRE TRAINING CENTER - \$56,000

WHEREAS, the James City Fire Training Center needs to vacate its current location at Eastern State Hospital; and

WHEREAS, suitable rental space has been located in McLaws Circle; and

WHEREAS, estimated rent and relocation costs for the remainder of FY 2006 are \$56,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$56,000 from Operating Contingency to the Fire Department's Operating Budget.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

firebudget.res

**SPECIAL USE PERMIT-27-05. Chickahominy Baptist Church Expansion
Staff Report for the October 11, 2005, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Building F Board Room; County Government Complex

Planning Commission: September 12, 2005, 7:00 p.m.
Board of Supervisors: October 11, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant: Ms. Marion J. Brown
Land Owner: Chickahominy Baptist Church
Proposal: The applicant has proposed to construct a 5,800-square-foot addition to the existing church
Location: 2900 Chickahominy Road
Tax Map/Parcel Nos.: (1-8) (22-3), (1-9) (22-3), and (1-9A) (22-3)
Parcel Size: 1.75 combined acres for all three parcels
Existing Zoning: R-8, Rural Residential
Comprehensive Plan: Rural Lands
Primary Service Area: Outside

STAFF RECOMMENDATION

Staff believes that this proposal is consistent with the Comprehensive Land Use Map designation and is compatible with surrounding zoning and development. Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development. Based on this information, staff recommends that the James City County Board of Supervisors approve this application subject to the attached conditions.

Staff Contact: Matthew J. Smolnik Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On September 12, 2005, the Planning Commission voted 5-0 to approve this application.

Proposed Changes Made Since Planning Commission Meeting

Conditions Nos. 9 and 10 were added since the September 12, 2005, Planning Commission meeting. The entrances were discussed at the Planning Commission meeting and the Virginia Department of Transportation (VDOT) believes that the current entrance on the east side of the property is a safety concern.

PROJECT DESCRIPTION

Ms. Marion J. Brown of Chickahominy Baptist Church has applied for a special use permit (SUP) to allow for an expansion of the church's facilities. A SUP is required for houses of worship in R-8, Rural Residential Districts. Located at 2900 Chickahominy Road, the Chickahominy Baptist Church is currently a one-story building with a gross floor area of 3,912 square feet and seats 190 persons. There are two gravel parking lots on the property, which can accommodate a total of 70 vehicles. The proposed one-story expansion is approximately 5,700 square feet in size and will accommodate classrooms, kitchen, choir room, rest rooms, administrative offices, and a fellowship hall. A portico is also proposed along the front entrance to the church. The three parcels to be used for the church operation will be combined into one larger parcel totaling 1.75 acres.

On September 1, 2005, the James City County Board of Zoning Appeals approved a variance to Section 24-251, Setback Requirements, for the Chickahominy Baptist Church. This variance reduces the required front yard setback and is to allow for the construction of a raised patio and portico on the front of the church and an addition on the left side of the church.

PUBLIC IMPACTS

Archaeology

Condition: Staff is proposing the standard archeological condition for the area to be disturbed by the expansion.

Environmental

Watershed: Yarmouth Creek

Staff Comment: The Environmental Division staff has reviewed the proposal and finds the locations of the stormwater management infiltration trenches acceptable. Further environmental issues will be handled at the site plan stage.

Public Utilities

The site is served by public water. Sewage is handled through an on-site septic system.

Condition: Staff is proposing the standard water conservation condition and that the applicant shall receive full approval from the Health Department for septic tank and drainfield capacity prior to final site plan approval.

JCSA Staff Comment: JCSA has reviewed the proposal and has no comments at this time.

Health Department Comment: The Health Department has recommended that the applicant consult with an Authorized On-site Soil Evaluator (AOSE) for the development of an on-site sewage disposal system.

Staff Comment: Staff has informed the applicant that additional information will need to be submitted prior to final site plan approval ensuring that the soils on the property are sufficient for an on-site sewage disposal system. Water conservation measures will be placed on the church through the SUP conditions.

Transportation

Road Improvements: No road improvements are proposed for Chickahominy Road.

VDOT Comment: The speed limit along this section of Chickahominy Road is 45 mph and 490 feet of sight distance would be needed to sufficiently accommodate this speed. VDOT has noted severe sight distance limitations in both directions at the existing access to the 30-space gravel parking area. Sight distance is limited by a combination of the horizontal alignment of the road, embankments, and the church sign.

Staff Comment: Staff waived the traffic impact study for this application given the amount of traffic generation expected for this use and the favorable capacity conditions on Chickahominy Road. Staff concurs with VDOT and notes that these geometric issues can be addressed at the site plan stage. According to Section 24-59 (a)(c)(17) of the Zoning Ordinance, one parking space is required for every five seats based upon the seating capacity for places of public assembly; therefore, the existing sanctuary would require 38 parking spaces. In instances where an event may occur concurrently in the fellowship

hall with a church service in the sanctuary at full capacity, staff believes the remaining 32 (from the 70 total) parking spaces are sufficient to accommodate the parking demands. If the entire 5,800-foot addition was placed in the *Category A - High Demand* parking requirements according to Section 24-59 (a)(1)(b) of the Zoning Ordinance, then one parking space would need to be provided for every 200 square feet of floor area. This scenario would require 29 parking spaces, which are provided with the current parking lot design. In summary, concurrent use of the existing sanctuary and proposed addition would require 67 spaces while 70 spaces are currently provided. Based on this information, staff believes that the total number of parking spaces on the property can accommodate the uses at the church.

COMPREHENSIVE PLAN

Land Use Map Designation

The James City County Comprehensive Plan Land Use Map designates this property as Rural Lands. Rural Lands are areas containing farms, forests, and scattered houses, exclusively outside of the Primary Service Area (PSA), where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for in the future. Appropriate primary uses include agricultural and forestal activities, together with certain recreational, public, or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Rural Land Use Development Standards speak to siting non-agricultural and non-forestal uses in areas where they minimize impacts or do not disturb agricultural/forestal uses or open fields.

Condition

Staff is proposing the standard lighting condition to mitigate any potential negative visual impacts.

Staff Comment: Staff believes the proposed use, with the attached conditions, is consistent with the Land Use designation of the Comprehensive Plan. The site is not suitable for agricultural or forestal use and is largely surrounded by single-family detached homes on similarly zoned, non-agricultural land. While non-agricultural or non-forestal uses are not encouraged in Rural Lands, staff finds the proposed use acceptable given the use's minimal impact to the surrounding area and the existing on-site and surrounding uses.

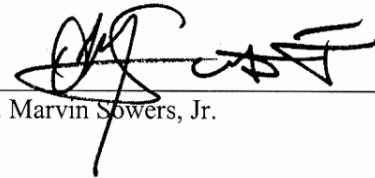
RECOMMENDATION

The United States government enacted the Religious Land Use and Institutionalized Persons Act of 2000 (the "Act"). The Act prohibits imposing a substantial burden on the free exercise of religion through land use regulations unless there is a compelling government interest. It is staff's opinion that the conditions contained in this SUP are reasonably related to the impacts caused by the use of the property and do not constitute a substantial burden on the free exercise of religion.

Staff believes that this proposal is consistent with the Comprehensive Land Use Map designation and is compatible with surrounding zoning and development. Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development. Based on this information, staff recommends that the James City County Board of Supervisors approve this application subject to the attached conditions.

Matthew J. Smolnik

CONCUR:



O. Marvin Sowers, Jr.

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ATTACHMENTS:

1. Minutes from the September 12, 2005, Planning Commission Meeting
2. Location Map
3. Architectural Elevations (under separate cover)
4. Site Layout in Relation to Chickahominy Road
5. Resolution

**APPROVED MINUTES OF THE SEPTEMBER 12, 2005 MEETING
OF THE PLANNING COMMISSION**

SUP-27-05 Chickahominy Baptist Church Expansion

Mr. Matthew Smolnik presented the staff report. Ms. Marian J. Brown has applied for a Special Use Permit to construct a 5,800-square-foot addition to the existing Chickahominy Baptist Church building. The property is located at 2900 Chickahominy Road and may be further identified as parcel (1-9) on the JCC Tax Map (22-3). The property is zoned R-8, Rural Residential and is designated as Rural Lands by the JCC Comprehensive Plan.

Staff found the proposal consistent with the Comprehensive Plan and Land Use Map designation and compatible with surrounding zoning and development. Staff also believed the proposed conditions would sufficiently mitigate impacts and recommended approval of the application and attached conditions.

Mr. Billups asked if the proposal would trigger the need for additional parking.

Mr. Smolnik said that enough parking exists to accommodate full capacity.

Mr. Hunt opened the public hearing.

Ms. Marian Brown, 7272 Little Creek Dam Road, said the size of the existing church does not support their current ministries. Ms. Brown showed the proposed elevations and indicated the uses for the new spaces.

Mr. Corwin Hammond, 6120 Glenrose Dr., Suffolk, said the church has become a focal point in the community. He said the increased space will be used for youth and community programs.

Hearing no other requests to speak, Mr. Hunt closed the public hearing.

Ms. Jones asked for an explanation of a Virginia Department of Transportation (VDOT) comment concerning the driveway.

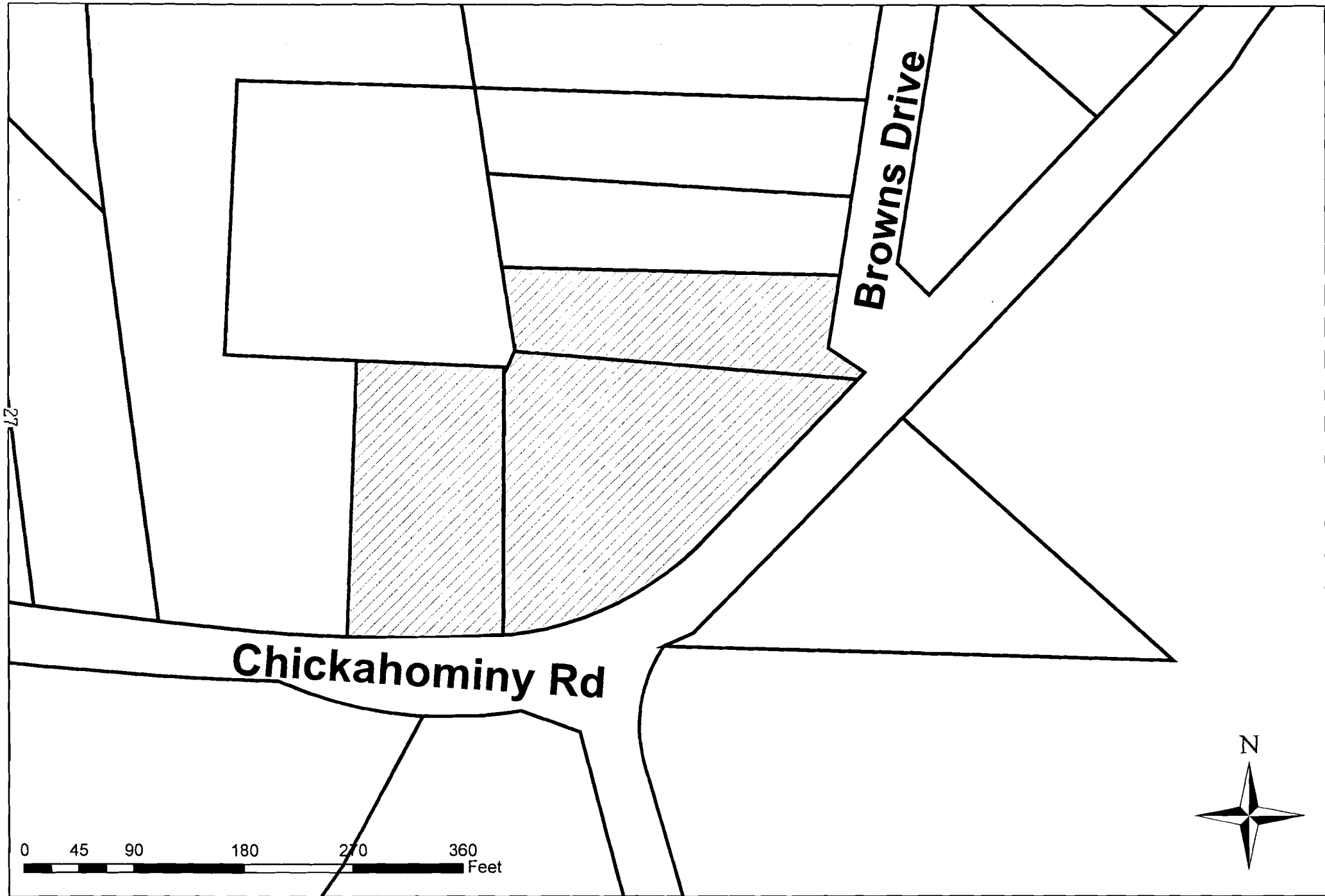
Mr. Smolnik said the recommendation was made due to limited sight distance. He pointed to the current and suggested driveway locations on a location map.

Mr. Kennedy motioned to recommend approval of the application and attached conditions.

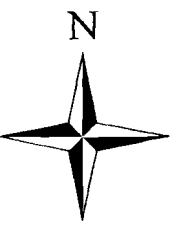
Mr. Fraley recognized church members in the audience and spoke about the good work they perform in the community. He seconded the motion.

In a unanimous roll call vote the application and attached conditions were recommended for approval (5-0). AYE: (5) Hunt, Kennedy, Jones, Fraley, Billups; NAY: (0). (Kale absent)

SUP-27-05: Chickahominy Baptist Church Expansion



0 45 90 180 270 360 Feet



N/E
TRUSTEES OF
CHICKAHOMINY BAPTIST CHURCH
TM# (22-3)(1-19A)
DOC# 0000011832

REMAINS OF DILAPIDATED
WIRE FENCE

8.8'
18" MARKED
OAK FD.

S 77°12'12" E

282.83'

2.656 ACRES

2-S-BLK
BLDG.

ADDITION

EXIST'G. CHURCH
(SEATING - 190 PERSONS)

EXISTING
GRAVEL PARKING
(130 SPACES)

GRAVEL PARKING

EXISTING
GRAVEL PARKING
(40 SPACES)

GRAVE SITE

LOOK
ANGLE

1928
1928

107.61'
S 46°55'48" W

94.55'
S 54°12'27" W

CHICKAHOMINY ROAD
STATE ROUTE 631

98.21'
N 81°34'25" W

46.31'
S 82°26'13" W

135'
S 68°26'14" W

ROD
SET

ROD
SET

ROD
SET

ROD
SET

23

28

RESOLUTION

CASE NO. SUP-27-05. CHICKAHOMINY BAPTIST CHURCH EXPANSION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a special use permit (SUP) process; and

WHEREAS, the applicant has proposed a 5,800-square-foot addition to the existing church; and

WHEREAS, the property is currently zoned R-8, Rural Residential, designated Rural Lands on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 2900 Chickahominy Road on property more specifically identified as Parcel Nos. (1-8), (1-9), and (1-9A) on James City County Real Estate Tax Map Number (22-3); and

WHEREAS, on September 12, 2005, the Planning Commission recommended approval of the application by a vote of 5-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-27-05 as described herein with the following conditions:

1. This SUP shall be valid for the existing church and an expansion not to exceed 5,900 square feet in size and accessory uses thereto. Development of the site shall be generally in accordance with the submitted Master Plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building. Such building shall be generally consistent, as determined by the Director of Planning, with the architectural elevations titled "Chickahominy Baptist Church Conceptual Design Elevations" submitted with this SUP application, dated March 4, 2005, and drawn by Louis W. Johnson, Jr.
3. If construction has not commenced on this project within 36 months from the issuance of a SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction, and footings and foundation have passed required inspections.
4. Any new exterior site lighting shall be limited to fixtures that are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.

5. A Phase I Archaeological Study for the area to be disturbed by the expansion shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I Study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II Study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III Study. If in the Phase III Study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III Study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas.
All Phase I, Phase II, and Phase III Studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon.
6. Freestanding signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 32 square feet in size and not to exceed eight feet in height from grade.
7. The applicant shall receive full approval from the Health Department for septic tank and drainfield capacity prior to final site plan approval.
8. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
9. Only one entrance shall be allowed onto Chickahominy Road. The current entrance on the east side of the property shall be permanently closed and relocated to Browns Drive. Entrance improvements shall be reviewed and approved by the Virginia Department of Transportation (VDOT) prior to final site plan approval.
10. A CE-7 Land Use permit shall be obtained from the Virginia Department of Transportation (VDOT) following final site plan approval for the construction of an entrance from the property onto Browns Drive.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of
October, 2005.

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AGRICULTURAL & FORESTAL DISTRICT-5-86. Barnes Swamp – Toano Business Centre, LLC Withdrawal

Staff Report for the October 11, 2005, Board of Supervisors Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:

Board of Supervisors:

Building F Board Room; County Government Complex

September 12, 2005, 7:00 p.m.

October 11, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant:

Michael Brown

Land Owner:

Toano Business Centre, LLC

Proposal:

Withdrawal of 79.12 acres from the existing Barnes Swamp AFD

Location:

Old Stage Road

Tax Map/Parcel Nos.:

(4-1)(5-1), (4-1)(5-2), (4-1)(5-3), (4-1)(5-4) and (4-1)(5-5)

Parcel Size:

79.12 acres

Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff finds that the proposed withdrawal is not consistent with all of the criteria for the withdrawal of lands from Agricultural and Forestal Districts outside the Primary Service Area (PSA). However, staff does note that the ultimate use of this property is consistent with the Comprehensive Plan and the withdrawal will not cause the Barnes Swamp Agricultural and Forestal District (AFD) to be discontinued. Given the unusual circumstances behind this request staff has no major objections should the Board wish to approve this withdrawal.

On September 6, 2005, the AFD Advisory Committee recommended denial of this application by a vote of 8-0 with one abstention.

Staff Contact:

Matthew Arcieri

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On September 12, 2005, the Planning Commission recommended denial of this application by a vote of 5-0.

Proposed Changes Made Since Planning Commission Meeting

None

PROJECT DESCRIPTION

In August of 2002 the Board of Supervisors renewed the Barnes Swamp AFD for a period of four years. Mr. Michael Brown has requested a withdrawal of 79.12 acres from the Barnes Swamp AFD. It is comprised of five parcels identified as James City County Real Estate Tax Map Nos. (4-1)(5-1), (4-1)(5-2), (4-1)(5-1), (4-1)(5-4), and (4-1)(5-5). The property to be withdrawn is accessed from Old Stage Road.

In April of 2005 the James City County Planning Division approved a subdivision dividing the original 79-acre parcel into five lots. This subdivision was approved in error as the conditions of the AFD district prohibit subdivisions of less than 25 acres. The applicant has also filed a second subdivision to re-subdivide Parcel

(4-1)(5-5) into an additional four lots bringing the total number of lots for this parcel to nine, the maximum permitted for a minor subdivision. The second subdivision cannot be approved as long as the parcel remains in the AFD.

PUBLIC IMPACTS

Surrounding Zoning and Development

The parcel is zoned A-1, General Agricultural, and is surrounded by similarly zoned property. The parcel is entirely wooded.

Public Utilities

Public water and sewer is unavailable.

COMPREHENSIVE PLAN

Land Use Map Designation

The 2003 Comprehensive Plan designates this parcel as Rural Lands.

Staff Comments: The majority of parcels within the Barnes Swamp AFD are also designated Rural Lands. One Comprehensive Plan objective calls for protecting and preserving the County's agricultural and forestal lands and activities. The Agricultural and Forestal District program supports this objective.

ANALYSIS

On September 24, 1996, The Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels that are outside the PSA. That policy and criteria are as follows:

1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.
2. The criteria for withdrawal during the terms of the districts are as follows:
 - A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
 - B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner, that could not otherwise be realized upon expiration of the AFD.
 - C. The request would not cause damage or disruption to the existing district.
 - D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever criteria it deems appropriate for the individual case.

Each of these criteria has been evaluated by staff:

Criteria 2A: Change in Circumstances

Staff believes that both the applicant and staff, with proper due diligence, should have been aware that the property was in an AFD when the application to subdivide was made. There has not been a change in circumstances that would merit withdrawal. **The application does not meet this criteria.**

Criteria 2B: Request Would Serve a Public Purpose

The withdrawal is not for any public purpose. **The application does not meet this criteria.**

Criteria 2C: No Damage or Disruption to District

Should this withdrawal be approved, the size of the Barnes Swamp AFD would be 1,805.76 acres and will still meet minimum acreage requirements for AFDs. In addition the withdrawal is a small part of a large AFD so that the district should not be significantly disrupted if some other property owners withdraw during the August 2006 renewal. **The application meets this criteria.**

Criteria 2D: Conformance with the Comprehensive Plan

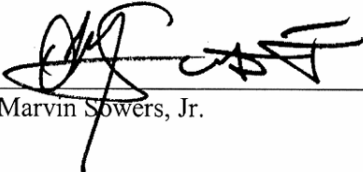
The parcel is being subdivided under the provisions of the A-1 subdivision (3-acre lot minimum). The proposed and platted lots range in size from 5.01 to 24.585 acres, exceeding ordinance minimums. Staff finds that the proposed residential lots would be consistent with the Comprehensive Plan's Rural Lands designation. **The application meets this criteria.**

RECOMMENDATION

Should this withdrawal be approved, the size of the Barnes Swamp AFD would be 1,805.76 acres and will still meet minimum acreage requirements for AFDs. Staff finds the proposed withdrawal is not consistent with all of the criteria for the withdrawal of lands from AFDs outside the PSA. However, staff does note that the ultimate use of this property is consistent with the Comprehensive Plan and the withdrawal will not cause the Barnes Swamp AFD to be discontinued. Given the unusual circumstances behind this request, staff has no major objections should the Board wish to approve this withdrawal. On September 6, 2005, the AFD Advisory Committee recommended denial of this application by a vote of 8-0 with one abstention. On September 12, 2005, the Planning Commission recommended denial of this application by a vote of 5-0.

Matthew D. Arcieri

CONCUR:



O. Marvin Sowers, Jr.

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ATTACHMENTS:

1. Planning Commission Minutes
2. Location Map
3. Minutes of the July 18, 2005, AFD Advisory Committee Meeting
4. Ordinance

**APPROVED MINUTES OF THE SEPTEMBER 12, 2005 MEETING
OF THE PLANNING COMMISSION**

AFD-5-86 Barnes Swamp – Toano Business Center, LLC Withdrawal

Mr. Matthew Arcieri presented the staff report. Mr. Michael Brown has applied to withdraw approximately 79.12 acres from the existing Barnes Swamp Agricultural & Forestal District (AFD). In April of 2005 a subdivision of this property into five lots was approved in conflict with the conditions of the AFD. The property is located at 11125 Old Stage Road and can be further identified as Parcels (5-1), (5-2), (5-3), (5-4) and (5-5) on the JCC Tax Map (4-1).

Staff found the proposal inconsistent with the criteria for withdrawal from AFDs outside the Primary Service Area (PSA), but did note that the use is consistent with the Comprehensive Plan and will not cause the Barnes Swamp AFD to be discontinued. Given the unusual circumstances behind the request staff had no major objections.

On September 6, 2005 the AFD Advisory Committee recommended denial of the application by a vote of 8-0 with one abstention.

Mr. Hunt opened the public hearing.

Mr. Carlye Ford, 319 Farmville Lane, represented the AFD Advisory Committee. The Committee found the proposal inconsistent with the guidelines established by the Board of Supervisors for withdrawal of property from an AFD outside the PSA. The Committee unanimously recommended denial.

Mr. Walter Dzula Jr., 12021 Old Stage Road, was concerned about the continued development in the area given the lack of public services. He said that both he and his uncle have had to install new wells. Mr. Dzula stated that overcrowded schools were another concern.

Hearing no other requests to speak, Mr. Hunt closed the public hearing.

Mr. Billups stated that the AFD Advisory Committee was knowledgeable of the situation and that the Board of Supervisors had set forth the directions for any modifications; therefore it is up to the Board to approve or disapprove any changes. He said he will not override the AFD Committee or the Board of Supervisors.

Mr. Hunt asked when the district would come up for renewal.

Mr. Arcieri said August of 2006.

Mr. Kennedy confirmed that the property could be withdrawn at that time. He asked what steps had been taken to ensure that situations like this do not occur again.

Mr. Arcieri described the current procedure for making sure a property is not in an AFD as well as the additional measures that have been added.

Mr. Kennedy asked what financial obligations, if any, the applicant had committed to the project and if reimbursement by the County had been discussed.

Mr. Michael Brown said he had spent approximately \$3,000 to \$5,000 since Planning gave approval and that there had been no discussions about reimbursement. Mr. Brown also stated that should this case be denied he intended to develop the property next August.

Ms. Jones said that given the AFD Committee's strong recommendation for denial and that the project did not meet the full criteria for withdrawal she could not support the application.

Mr. Fraley stated that the Board of Supervisors has set a policy that discourages withdrawal of land during the term of the Districts, that the application does not meet two of the four criteria for withdrawal, and the AFD Committee gave a strong recommendation for denial. He said that for those three reasons he was unable to support the application.

Mr. Kennedy said the applicant had stated that he would still withdraw the land from the AFD in eleven months. He also said he was concerned due to the number of new planners and ensuring that mistakes like this don't happen again. Mr. Kennedy said that because of the policy that has been established he would have to say no. He also recommended that the Board of Supervisors come to some kind of financial agreement with the applicant.

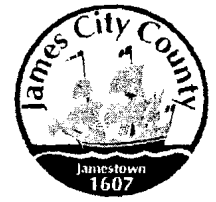
Mr. Billups said that when property owners elect to be included in an AFD they should commit to the full four year term.

Mr. Ford stated that Mr. Brown did not place the property in the AFD, but that he purchased it afterwards.

Mr. Sowers stated that the motion was to recommend denial of the application.

In a unanimous roll call vote denial was recommended (5-0). AYE: (5) Hunt, Kennedy, Jones, Fraley, Billups; NAY: (0) (Kale absent)

AFD-5-86; Barnes Swamp, Toano Business Center, LLC Withdrawal



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UNAPPROVED MINUTES OF THE SEPTEMBER 6, 2005 MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE

AFD-5-86 Barnes Swamp: Toano Business Centre, L.L.C. Withdrawal

Mr. Arcieri gave a summary of the staff report. He explained the Board of Supervisor's adopted policy and listed the withdrawal criteria for AFD parcels outside the Primary Service Area that were established. He further stated that staff had no objections to the withdrawal. Mr. Ford asked for the County Attorney's opinion on the matter in accordance with what the Code says and stated that if the Board of Supervisors approved this withdrawal there would not be anything to stop them from approving any withdrawal proposed outside of the PSA.

Mr. Kinsman stated that there were provisions to get out of an AFD with good and reasonable cause. He noted that the Board of Supervisors adopted a resolution in 1996 that contains a set of four general policy reasons that suggest a parameter for defining good and reasonable cause. He further stated that the policy also permitted additional criteria to determine the definition of good and reasonable cause. Mr. Kinsman then stated that the Committee could recommend withdrawal if they determined that any one of the criteria were sufficient to establish good and reasonable cause.

Mr. Kinsman added that any time a staff error is made in derogation of the Ordinance, the mistake is a nullity from its inception. He explained that this means the subdivision never happened and ceases to have been legally approved, as errors like this do not become law. He stated that staff's decision cannot go against the Ordinance and that there are ways to prevent that from occurring. He added that if the AFD Committee, Planning Commission, and Board of Supervisors did not approve the withdrawal, then the deed could be amended along with an affidavit stating that the property could not be subdivided given current land use and tax status and did not happen.

Mr. Ford stated that the Board of Supervisors set the policy for withdrawing property outside the Primary Service Area and that the AFD Committee should not approve it because if their recommendation was upheld by the Board, they would essentially be nullifying the policy, therefore setting a precedent for future cases with similar merits.

Mr. Kinsman restated that the four criteria can be used as well as additional criteria that the Committee felt pertained to establishing good and reasonable cause for the individual case. Mrs. Lowe asked how the decision would weigh in future applications for additions or withdrawals from a public perception standpoint. Mr. Kinsman stated he could not determine whether it would increase applications or not but that it would set a precedent in the public eye to the extent that the public could factor in the Committee's decision in their own decision to withdraw. Mr. Arcieri noted that precedent in this case would require staff error. Mr. Kinsman agreed. Mr. Arcieri stated that a decision would weigh in staff error and that it would be a defining characteristic in any precedent established. Mr. Abbott noted

that this was only the second mistake in nine years. Mr. Abbott expressed that he was surprised that it only happened twice during the period.

Mr. Abbott asked if the applicant would be held responsible for any tax penalties if the subdivision was upheld, given the source of the mistake. Mr. Ford responded that the land owner had to pay the taxes back for the period of time elapsed between the changes in the use of the land. He noted that the Commissioner of the Revenue could set a larger penalty for not being notified of the change in the use of land that was in an AFD and under land use taxation. He further stated that the tax books showed lower assessed value of AFD land. Mr. Abbott asked if there was a layer on Real Estate's property information system that showed land in an AFD and land in conservation easements, and if that mechanism was readily apparent and available to any user. Mr. Richard Bradshaw replied that a planner had access using GIS, but that he was unsure if a citizen could obtain that information on the Real Estate website.

Mr. Abbott noted that if the application for withdrawal was turned down, the applicant could come back in August when the renewal period was up to withdraw the piece he wished to subdivide. He asked for confirmation that if the Committee and Board of Supervisors turned the proposal down, that the applicant would have to wait until next August to obtain approval for a subdivision. Mr. Ford concurred and stated that if he withdrew next August, rollback taxes would still apply. Mr. Richard Bradshaw confirmed that the applicant would pay rollback taxes on the current year and preceding five years.

Mr. Gilley asked if there were any more questions before they voted. Mrs. Garrett stated that she felt criteria 2C could not be met, because she saw the withdrawal as inflicting damage to the district. She restated that in allowing it, the Committee would be letting the applicant out a year in advance of the renewal period. Mr. Ford noted that criteria 2C which stated that, "The request would not cause damage or disruption to the existing district," was meant to protect other landowners in the AFD that would suffer the consequence of losing AFD status if the district fell below 200 acres due to a withdrawal.

Mr. Gilley asked for a roll call vote. Mr. Andy Bradshaw stated that he would abstain from voting because of his role on the Board of Supervisors. He further noted that the Board would value the opinion of the AFD Committee.

Mr. Arcieri noted that the Planning Commission would consider the request at its Monday, September 12 meeting.

Mr. Ford stated that if the Committee approved it, no teeth would be left in the AFD policy. Mrs. Lowe responded that the AFD Committee should not make a decision it would later regret, especially considering all the land in the County that is already being rapidly lost to development.

Mr. Gilley asked for questions before voting. Mr. Ford made a motion to deny the request for withdrawal and Mrs. Garrett seconded. The motion passed unanimously with Mr. Andy Bradshaw abstaining.

ORDINANCE NO. _____

AFD 5-86. BARNES SWAMP AGRICULTURAL AND FORESTAL DISTRICT

(TOANO BUSINESS CENTRE, LLC WITHDRAWAL)

WHEREAS, a request to withdraw 79.12 acres owned by Toano Business Centre LLC, from AFD 5-86, generally identified as Parcel Nos. (5-1), (5-2), (5-3), (5-4) and (5-5) on James City County Real Estate Tax Map No. (4-1) from the 1,884.88-acre Barnes Swamp Agricultural and Forestal District has been filed with the James City County Board of Supervisors; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its September 6, 2005, meeting voted 8-0 with one abstention to recommend denial of the 79.12-acre Toano Business Centre LLC withdrawal; and

WHEREAS, according to Section 15.2-4314 of the Code of Virginia, a public hearing was advertised and held by the Planning Commission at its September 12, 2005, meeting and voted 5-0 to recommend denial of the Toano Business Centre LLC withdrawal; and

WHEREAS, according to Section 15.2-4214 of the Code of Virginia, a public hearing was advertised and held by the Board of Supervisors of James City County, Virginia; and

WHEREAS, the Board finds that the withdrawal request meets the criteria set forth in the Board of Supervisors' Withdrawal Policy for Agricultural and Forestal District Parcels Outside the Primary Service Area, dated September 24, 1996.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby removes that 79.12 acres owned by Toano Business Centre, LLC as referenced herein from the 1,888.88-acre Barnes Swamp Agricultural and Forestal District.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

Afd-5-86.res

M E M O R A N D U M

DATE: October 11, 2005

TO: The Board of Supervisors

FROM: Matthew Arcieri, Senior Planner

SUBJECT: Ordinance to Amend and Reordain Chapter 24, Zoning, Article V, Districts, Division 8, Rural Residential, R-8, Section 24-349, Uses Permitted by Special Use Permit Only

Williamsburg Landing has requested that the R-8, Rural Residential, zoning ordinance be amended to permit “facilities for the residence and/or care of the aged” with a special use permit (SUP). The specific reasons for this request can be found in the staff report for the accompanying SUP (Case No. SUP-26-05); therefore, this report only addresses the proposed ordinance amendment.

Currently the R-8 district only permits nursing homes with an approved SUP. A nursing home is defined as a facility that provides nursing services on a continual basis. Williamsburg Landing does offer nursing services but, due to its residential component, is classified as a “facility for the residence and/or care of the aged.” Therefore, it is not permitted in the R-8 district.

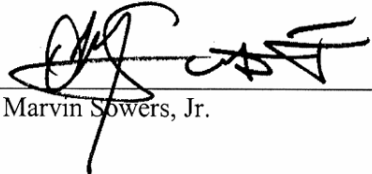
Nursing homes and facilities for the residence and/or care of the aged are currently a specially permitted use in the R-5, Multifamily Residential District and the PUD, Planned Unit Development District.

Staff recommends that the Zoning Ordinance be amended to permit facilities for the residence and/or care of the aged in the R-8 Zoning District with a SUP. Staff notes that nursing homes are already a specially permitted use. Other similar currently permitted facilities include rest homes for fewer than 15 adults (permitted by-right) and rest home for 15 or more adults (SUP required). This language will permit facilities with similar impacts as those already allowed. Through the SUP, the Planning Commission and Board of Supervisors will have the ability to review and mitigate any potential negative impacts on a site specific basis.

Staff recommends approval of the attached ordinance. On September 12, 2005, the Planning Commission recommended approval by a vote of 5-0.

Matthew D. Arcieri

CONCUR:



O. Marvin Sowers, Jr.

MA/gs
Sect24_349amendord.mem2

Attachments:

1. Planning Commission Minutes
2. Ordinance

**APPROVED MINUTES OF THE SEPTEMBER 12, 2005 MEETING
OF THE PLANNING COMMISSION**

ZO-5-05 Zoning Ordinance Amendment – Aged Facilities
SUP-26-05 Williamsburg Landing Parking Addition

Mr. Matthew Arcieri presented the combined staff reports. Mr. Tim Trant has applied for an ordinance amendment and special use permit to permit the construction of an accessory parking lot at Williamsburg Landing. The Ordinance requires that accessory parking have the same zoning classification as the use it supports. The special use permit process allows for the ability to review and mitigate any potential negative impacts on a site specific basis. Staff found the use consistent with surrounding uses and the Comprehensive Plan and recommended approval.

Mr. Hunt opened the public hearings.

Mr. Tim Trant, Kaufman and Canoles, introduced himself, the applicant, and the engineer for the project. He made himself available for questions.

Mr. Billups questioned the appropriateness of considering the amendment request and special use permit together prior to the Board of Supervisors having an opportunity to act on the former.

Mr. Sowers explained the process. He said it is intended to save time for the applicant.

Hearing no other requests to speak, Mr. Hunt closed the public hearings.

Mr. Sowers indicated that a single motion would be made to recommend approval.

In a unanimous roll call vote ZO-5-05 Zoning Ordinance Amendment – Aged Facilities was recommended for approval (5-0). AYE: (5) Hunt, Kennedy, Jones, Fraley, Billups; NAY: (0). (Kale absent)

In a unanimous roll call vote SUP-26-05 the Williamsburg Landing Parking Addition was recommended for approval (5-0). AYE: (5) Hunt, Kennedy, Jones, Fraley, Billups; NAY: (0). (Kale absent)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-349, USES PERMITTED BY SPECIAL USE PERMIT ONLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-349, Uses permitted by special use permit only.

Article V. Districts

Division 8. Rural Residential District, R-8

Section 24-349. Uses permitted by special use permit only.

Nursing homes *and facilities for the residence and/or care of the aged.*

Michael J. Brown, Chairman
Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

**SPECIAL USE PERMIT-26-05. Williamsburg Landing Parking Addition
Staff Report for the October 11, 2005, Planning Commission Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

September 12, 2005, 7:00 p.m.
October 11, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant: Paul Gerhardt, Kaufman and Canoles
Land Owner: Mary S. Waltrip
Proposal: Construct an accessory parking lot to serve a facility for the residence and/or the care of the aged and future shared parking for the airport.
Location: 20 Marclay Road
Tax Map/Parcel No.: (48-2)(1-12)
Parcel Size: 1.57 acres
Zoning: R-8, Rural Residential
Comprehensive Plan: Low-Density Residential
Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Comprehensive Plan. Staff recommends approval of this application.

Staff Contact: Matthew D. Arcieri Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On September 12, 2005, the Planning Commission recommended approval of this application by a vote of 5-0.

Proposed Changes Made Since Planning Commission Meeting

None

PROJECT DESCRIPTION

Mr. Paul Gerhardt of Kaufman and Canoles has applied for a Special Use Permit (SUP) to permit the construction of an accessory parking lot to be owned and operated by Williamsburg Landing. Note that this case is being processed concurrently with a zoning ordinance amendment to make facilities for the residence and/or care of the aged a specially permitted use in the R-8 zoning district. Please refer to that staff report for discussion of the proposed zoning ordinance change.

The applicant is proposing subdividing 1.57 acres currently owned by Mary Waltrip and constructing a 100-space accessory parking lot to be constructed and operated by Williamsburg Landing. An SUP is required in accordance with Sec. 24-55(b)(2) of the Parking Ordinance, which states that accessory parking must have a zoning classification that permits the use the parking will serve. Since facilities for the residence and/or care of the aged will be a specially permitted use in R-8, it is necessary for Williamsburg Landing to receive an SUP for the parking lot. The applicant has indicated that this lot may serve as shared parking with the Williamsburg Jamestown Airport in the future. Airports are also a specially permitted use in the R-8 zoning district. In accordance with Sec. 24-55(b), off-site parking for this facility would require approval by the Development Review Committee.

A site plan and subdivision associated with this case have already been processed administratively and staff will receive final approval pending approval by the Board of Supervisors of this SUP and its associated zoning ordinance amendment.

PUBLIC IMPACTS

Environmental

Watershed: College Creek

Staff Comments: The Environmental Division has approved the site plan associated with this case.

Public Utilities

Staff Comments: James City Service Authority has two minor technical corrections to be made to the site plan prior to final approval.

Transportation

The parking lot will be accessed from Williamsburg Landing Drive. The lot also includes future gated emergency access onto Marclay Road. The applicant has indicated that this lot may serve as shared parking with the Williamsburg Jamestown Airport in the future. In accordance with Sec. 24-55(b) off-site parking for this facility would require approval by the Development Review Committee.

COMPREHENSIVE PLAN

Land Use Map Designation

This property is designated Low-Density Residential. Nonresidential uses should complement the residential character of the low-density area and should have traffic, noise, lighting, and other impacts similar to surrounding or planned residential uses.

Conditions

Staff is proposing the standard lighting condition and a fencing condition to mitigate any potential negative visual impacts.

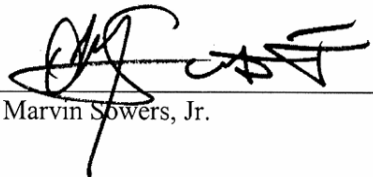
Staff Comments: Staff believes that, with the proposed conditions to mitigate any potential negative impacts, the parking lot is consistent with the Comprehensive Plan.

RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Comprehensive Plan. Staff recommends approval of this application with the conditions listed in the attached resolution. On September 12, 2005, the Planning Commission recommended approval of this application by a vote of 5-0.

Matthew D. Arcieri

CONCUR:



O. Marvin Sowers, Jr.

MDA/gb
Sup-26-05.doc

ATTACHMENTS:

1. Planning Commission Minutes
2. Location Map
3. Exhibit Showing Boundary Line Adjustment
4. Resolution

**APPROVED MINUTES OF THE SEPTEMBER 12, 2005 MEETING
OF THE PLANNING COMMISSION**

ZO-5-05 Zoning Ordinance Amendment – Aged Facilities
SUP-26-05 Williamsburg Landing Parking Addition

Mr. Matthew Arcieri presented the combined staff reports. Mr. Tim Trant has applied for an ordinance amendment and special use permit to permit the construction of an accessory parking lot at Williamsburg Landing. The Ordinance requires that accessory parking have the same zoning classification as the use it supports. The special use permit process allows for the ability to review and mitigate any potential negative impacts on a site specific basis. Staff found the use consistent with surrounding uses and the Comprehensive Plan and recommended approval.

Mr. Hunt opened the public hearings.

Mr. Tim Trant, Kaufman and Canoles, introduced himself, the applicant, and the engineer for the project. He made himself available for questions.

Mr. Billups questioned the appropriateness of considering the amendment request and special use permit together prior to the Board of Supervisors having an opportunity to act on the former.

Mr. Sowers explained the process. He said it is intended to save time for the applicant.

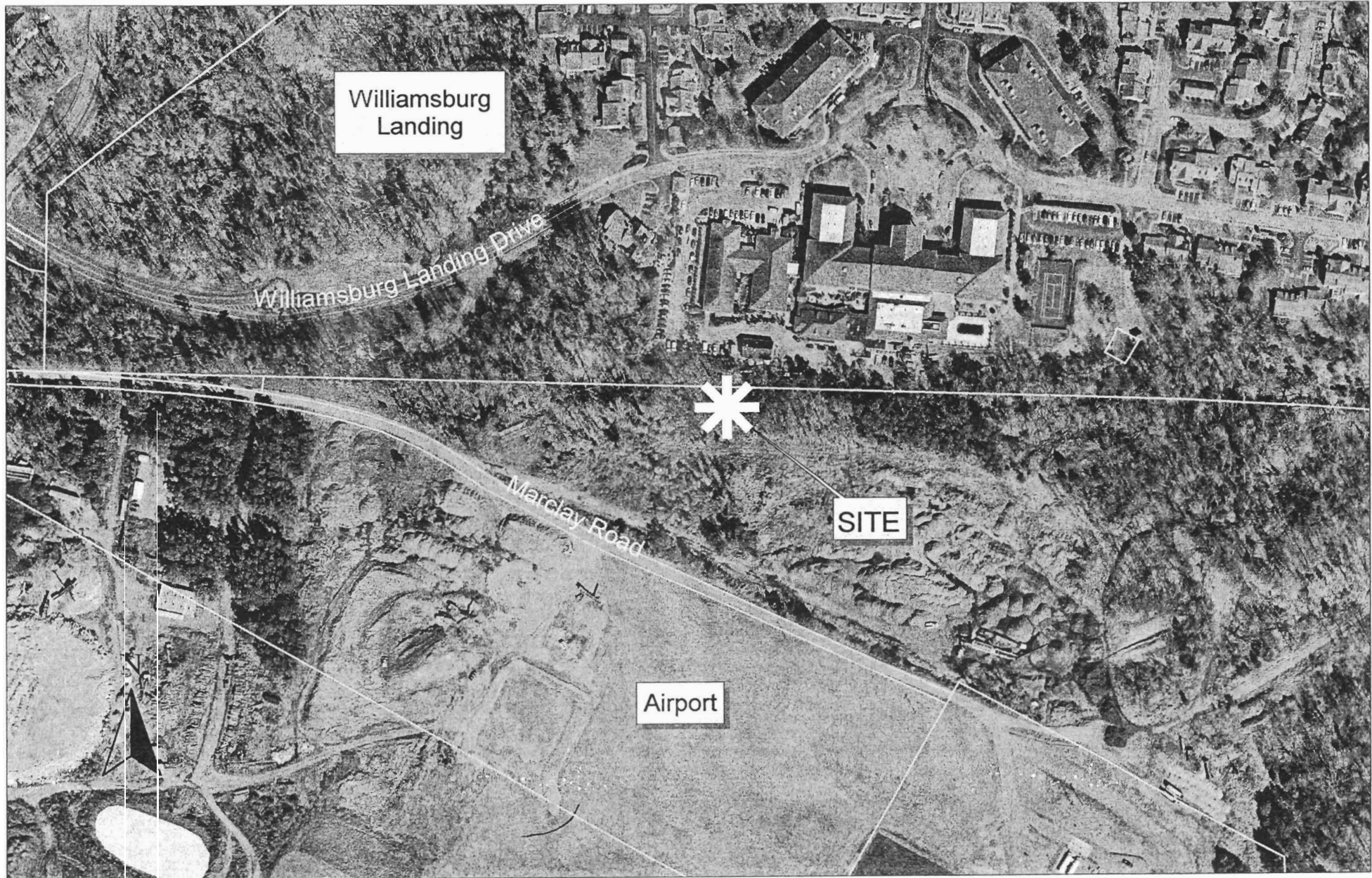
Hearing no other requests to speak, Mr. Hunt closed the public hearings.

Mr. Sowers indicated that a single motion would be made to recommend approval.

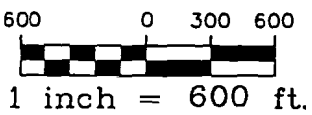
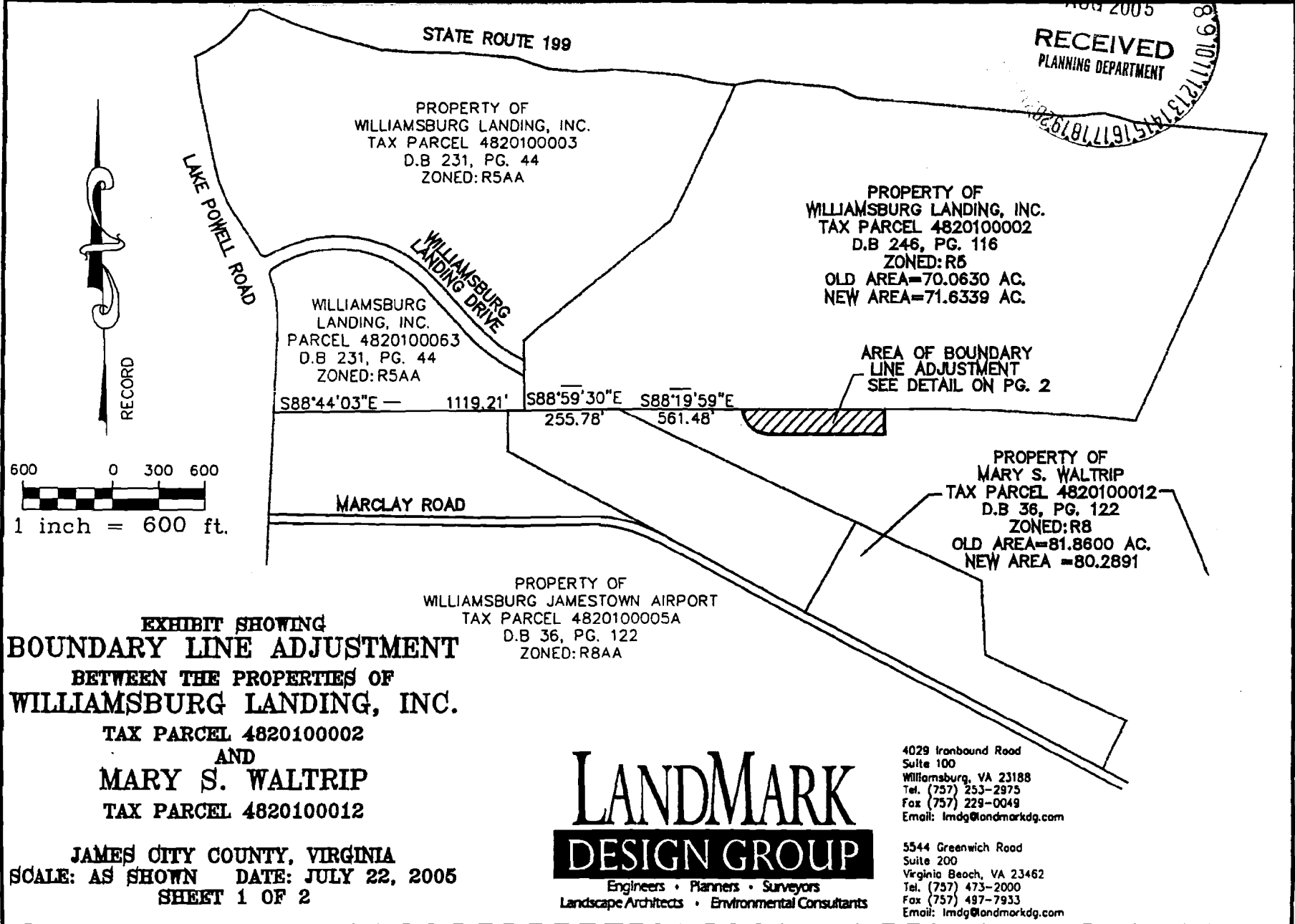
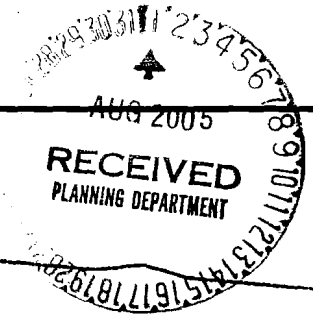
In a unanimous roll call vote ZO-5-05 Zoning Ordinance Amendment – Aged Facilities was recommended for approval (5-0). AYE: (5) Hunt, Kennedy, Jones, Fraley, Billups; NAY: (0). (Kale absent)

In a unanimous roll call vote SUP-26-05 the Williamsburg Landing Parking Addition was recommended for approval (5-0). AYE: (5) Hunt, Kennedy, Jones, Fraley, Billups; NAY: (0). (Kale absent)

SUP-26-05; Williamsburg Landing Parking Addition



52-26-05



**EXHIBIT SHOWING
BOUNDARY LINE ADJUSTMENT
BETWEEN THE PROPERTIES OF
WILLIAMSBURG LANDING, INC.
TAX PARCEL 4820100002
AND
MARY S. WALTRIP
TAX PARCEL 4820100012**

**JAMES CITY COUNTY, VIRGINIA
SCALE: AS SHOWN DATE: JULY 22, 2005
SHEET 1 OF 2**

**LANDMARK
DESIGN GROUP**
Engineers • Planners • Surveyors
Landscape Architects • Environmental Consultants

4029 Ironbound Road
Suite 100
Williamsburg, VA 23188
Tel. (757) 253-2975
Fax (757) 229-0049
Email: lmdg@landmarkdg.com

5544 Greenwich Road
Suite 200
Virginia Beach, VA 23462
Tel. (757) 473-2000
Fax (757) 497-7933
Email: lmdg@landmarkdg.com

52

RESOLUTION

CASE NO. SUP-26-05. WILLIAMSBURG LANDING PARKING ADDITION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) permit process; and

WHEREAS, facilities for the residence and/or care of the aged are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on September 12, 2005, recommended approval of Case No. SUP-26-05 by a 5-0 vote to permit the construction and operation of an accessory parking lot to Williamsburg Landing and the Williamsburg Jamestown Airport; and

WHEREAS, the property is located at 20 Marclay Road and further identified as Parcel No. (1-12) on James City County Real Estate Tax Map No. (48-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-26-05 as described herein with the following conditions:

1. This SUP shall be valid for the construction and operation of a 100-space parking lot serving as an accessory use to a nursing and/or care of the aged facility and an airport.
2. Prior to final approval of the site plan for the parking lot, a boundary line adjustment plat shall be approved and recorded that adjusts the property line of James City County Real Estate Tax Map No. (48-2) and Parcel No. (1-2) to include the portion of what is now Parcel No. (1-12) on which the parking lot is to be constructed.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare defined as 0.1 footcandle or higher shall extend outside the property lines as adjusted per Condition No. 2 above.
4. The fencing used to enclose the parking area shall be vinyl-coated and shall be dark green or black in color and shall be reviewed and approved by the Director of Planning prior to final site plan approval. An alternative style and/or type of fencing may be substituted with the approval of the Director of Planning.
5. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of
October, 2005.

Sup-26-05.res

MEMORANDUM

DATE: October 11, 2005

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

SUBJECT: Ordinance to Amend and Reordain Chapter 9, Fire Prevention, Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code

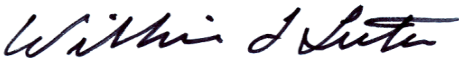
Attached for Board consideration is a proposed ordinance to amend James City County Code (the "Code"), Chapter 9, Fire Prevention, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code.

Currently, Chapter 9 of the Code states that the Fire Prevention Code shall be enforced under the direction of the fire official and fire official is defined as the Fire Marshall of the County or his/her duly authorized representative.

At one time in James City County, the Fire Chief was also the Fire Marshall. Several years ago, the Virginia Department of Housing and Community Development promulgated detailed regulations governing the certification for Fire Officials and Fire Marshals. Since then, the current practice of the James City County Fire Department ("JCCFD") has been for the Fire Chief to authorize the Deputy and Assistant Fire Marshals ("Fire Officials"), who hold and maintain the required certifications, to enforce the Fire Prevention Code under the direction of the Fire Chief.

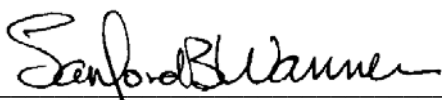
Section 9-1 of the Code needs to be amended to clarify that the Fire Officials enforce the Fire Prevention Code under the direction of the Fire Chief.

Staff recommends adoption of the attached ordinance amending Section 9-1 of the Code to accurately reflect the JCCFD's enforcement of the Fire Prevention Code.



William T. Luton

CONCUR:



Sanford B. Wanner

WTL/gb
FirePrev.mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, FIRE PREVENTION CODE, SECTION 9-1, ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by amending Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Fire Prevention Code.

Chapter 9. Fire Protection
Article I. Fire Prevention Code*

Section 9-1. Adoption of Virginia Statewide Fire Prevention Code.

Pursuant to section 27-97 of the Code of Virginia, the 2000 edition of the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the “fire prevention code” or “SFPC.” ~~The fire department shall enforce the fire prevention code under the direction of the fire official.~~ *The fire prevention code shall be enforced by the fire official under the direction of the fire chief. For the purposes of this chapter the fire chief shall be the head of the James City County fire department.*

* **State regulation reference** – 13 Virginia Administrative Code 5-51 – Virginia Statewide Fire Prevention Code.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk of the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October,
2005.

FirePrev.ord

MEMORANDUM

DATE: October 11, 2005

TO: The Board of Supervisors

FROM: Jennifer C. Lyttle, County Paralegal

SUBJECT: Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-29, Recovery of Expenses for Emergency Response

Attached for Board consideration is a proposed ordinance to amend James City County Code Section 13-29, Recovery of Expenses for Emergency Response. In 2005, the General Assembly amended Virginia Code Section 15.2-1716 to increase the maximum flat fee from \$100 to \$250 per emergency response to a person convicted of operating a motor vehicle, engine, train, or watercraft while impaired. The proposed ordinance increases the flat fee per emergency response in the James City County Code to \$250.

Staff recommends adoption of the attached ordinance.

Jennifer C. Lyttle

CONCUR:

Leo P. Rogers

JCL/gs
ord13-29amend.mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-29, RECOVERY OF EXPENSES FOR EMERGENCY RESPONSE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-29, Recovery of expenses for emergency response.

Chapter 13. Motor Vehicles and Traffic

Article II. Driving Automobiles, etc., While Intoxicated or

Under the Influence of any Drug*

Section 13-29. Recovery of expenses for emergency response.

Any person who is convicted of violating Virginia Code Sections 18.2-51.4, 18.2-266, or 29.1-738 or county code section 13-28, when his operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of any accident or incident resulting in an appropriate emergency response, shall be liable in a separate civil action to the county or to any volunteer rescue squad, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed \$1,000 in the aggregate for a particular accident or incident occurring in the county. In determining the “reasonable expense,” the county may bill a flat fee of ~~\$100~~ \$250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, “appropriate emergency response” includes all costs of providing law-enforcement, fire fighting, rescue, and emergency medical services.

The provisions of this section shall not preempt or limit any remedy available to the commonwealth, to the county, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving or operation of a vehicle as set forth herein.

State law reference - Code of Va., §15.2-1716.

* **State law reference** - Authority to adopt state law on the subject, Code of Va., §46.2-1313.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk of the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

13-29amend.ord

MEMORANDUM

DATE: October 11, 2005

TO: The Board of Supervisors

FROM: Doug Powell, Acting Community Services Manager
Leo P. Rogers, County Attorney

SUBJECT: Budget Amendment - FY 2006 for Purchase of Natural Gas Buses

Attached for your consideration is a resolution authorizing the County Administrator to execute an Amended Lease and Purchase Capital Agreement and budget appropriation for the procurement of seven additional natural gas buses for the Colonial Williamsburg Foundation (CWF) in support of Jamestown 2007.

We are able to procure buses with James City County having \$2.1 million in a congressional earmark obtained through our Jamestown 2007 partners and the assistance of Senator John W. Warner. The earmark provides 80 percent of project cost with the additional 20 percent shared by CWF and the Virginia Department of Rail and Public Transportation.

The Board of Supervisors approved the original Lease Purchase Agreement for nine natural gas buses through a previous congressional earmark on June 24, 2003. This amended Agreement continues the relationship between Williamsburg Area Transport (WAT), CWF, and James City County for purchasing natural gas buses for public transportation supporting Jamestown 2007 with WAT acting as the pass-through fiscal agency with oversight responsibility in accordance to Federal Transit Administration (FTA) regulations.

Staffs for CWF, WAT, and the County have reviewed the amended Lease and Purchase Capital Agreement. Important provisions of this Agreement include:


- WAT will apply for the grant, purchase the buses, and lease them to CWF. CWF will provide all funds in excess of the Federal and State grants needed for the purchase of these buses.
- The term of the Lease is the useful life of these buses as identified by the FTA. After the Lease term expires, CWF has the option to assume ownership of the buses and WAT has the right to terminate the Lease upon default by CWF.
- CWF is responsible for maintaining the buses during the term of the Lease.
- Under the terms of the Master Agreement between WAT and the FTA, WAT is responsible for ensuring that CWF operates the buses according to Federal law. CWF is required to file a report of all information that the FTA requests from WAT. While leased to CWF, the buses will be part of WAT's transportation system.

Staff recommends approval of the attached resolution authorizing the County Administrator to execute the Budget Appropriation and Amended Lease and Purchase Capital Agreement and budget appropriation on behalf of James City County.

Budget Amendment - FY 2006 for Purchase of Natural Gas Buses

October 11, 2005

Page 2



Doug Powell

Leo P. Rogers

DP/LPR/gs
CWFl easeagr.mem

Attachments

RESOLUTION

BUDGET AMENDMENT - FY 2006 FOR PURCHASE OF NATURAL GAS BUSES

- WHEREAS, James City County has available congressional earmark revenues of \$2.1 million to purchase seven natural gas buses; and
- WHEREAS, these Federal funds must be directed to an existing recipient of Federal funds; and
- WHEREAS, Williamsburg Area Transport will serve as a pass-through entity to receive the grant, purchase these buses, and lease them to the Colonial Williamsburg Foundation; and
- WHEREAS, James City County will act as the administrative, fiscal, and purchasing agent for the project; and
- WHEREAS, the Colonial Williamsburg Foundation, with the assistance of the Virginia Department of Rail and Public Transportation, will fund the cost to purchase the buses; and
- WHEREAS, the Colonial Williamsburg Foundation is committed to operating and maintaining these buses according to Federal laws; and
- WHEREAS, these buses are critical for efforts to continue public transportation to support needs for Jamestown 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute the amended Lease and Purchase Option Agreement with the Colonial Williamsburg Foundation and appropriate funds to Williamsburg Area Transport's budget as follows:

Revenues:

Federal	\$2,100,000
State	325,500
Colonial Williamsburg Foundation	<u>199,500</u>
	<u>\$2,625,000</u>

Expenditure:

Seven Natural Gas Buses	<u>\$2,625,000</u>
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Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of
October, 2005.

CWFl easeagr.res

MEMORANDUM

DATE: October 11, 2005

TO: The Board of Supervisors

FROM: Richard B. Hanson, Housing and Community Development Administrator

SUBJECT: Property Acquisition for Watford Lane Stormwater Detention Basin

An off-site detention basin is required to manage stormwater runoff from the Ironbound Square Elderly Housing Development. In accordance with the site plan which recently received preliminary approval from the Development Review Committee, this facility is to be constructed on a .455 acre vacant parcel located at 120 Watford Lane. This parcel is across Watford Lane from the Ironbound Square Redevelopment Area, as well as being adjacent to a JCSA sewage lift station. The northern portion of the site is impacted by the lift station, steep slopes, and a drainage way and cannot be developed, while the southern portion would require substantial clearing, regrading, and additional drainage controls in order to be developed.

The contract purchase price is \$22,500 which equals the appraised value of the property, as determined by Simmerlein Appraisals in 2004. Staff has obtained contracts to purchase approximately seventy percent (70%) of the ownership interests in this property from four of the property owners; however, several of the heirs of one owner live out of state and have been unresponsive to staff's numerous attempts to contact them.

The timeline for the acquisition of this property is critical as construction of the Ironbound Square Elderly Housing Development, which is projected to start in summer 2006, is contingent upon construction of the stormwater detention basin. Furthermore, it should be noted that the Watford Lane stormwater detention basin is being designed to be converted into a sediment forebay for the Ironbound Square regional storm drainage basin.

Staff recommends approval of the attached resolution authorizing the County to pursue the acquisition of the property through its right of condemnation.

Richard B. Hanson

CONCUR:

Leo Rogers

RBH/nb
WatfordLne.mem

Attachment

RESOLUTION

PROPERTY ACQUISITION FOR WATFORD LANE STORMWATER DETENTION BASIN

WHEREAS, a stormwater detention basin is needed for the Ironbound Square Elderly Housing Project; and

WHEREAS, the detention basin needs to be located on the real property commonly known as 120 Watford Lane and designated as Parcel No. (1-109) on James City County Real Estate Tax Map No. (39-2) (the "Property"); and

WHEREAS, in the opinion of the Board of Supervisors of James City County, Virginia, a public necessity exists for the acquisition of the Property for the construction of a stormwater detention basin for public purposes and for the preservation of the health, safety, peace, good order, comfort, convenience, morals, and welfare of James City County, Virginia.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that:

1. The acquisition of the hereinafter described property for stormwater drainage purposes is declared to be a public necessity and to constitute an authorized public undertaking pursuant to §15.2-1901.1, Code of Virginia (1950), as amended; and it is further declared that the acquisition and use of such property by the County will constitute a public use as defined by § 15.2-1900, Code of Virginia (1950), as amended.
2. The County elects to use the procedures set forth in §§ 25.1-300 et seq., as authorized by §15.2-1904A, Code of Virginia (1950), as amended.
3. A public necessity exists that the County enter upon and take the hereinafter described property for the purposes described herein above prior to or during the condemnation proceedings, and the County declares its intent to so enter and take the property under those powers granted pursuant to §15.2-1902 Code of Virginia (1950), as amended.
4. The County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan be, and they hereby are, authorized and directed to acquire by voluntary acquisition or, if necessary, by condemnation in the manner provided by Title 25, Code of Virginia (1950), as amended, and by Title 15 (§ 15.2-1900 *et seq.*), Code of Virginia (1950), as amended, the hereinafter-described property.
5. The names of the present owners of the property to be acquired are: Jerome Randolph, Jr., Executor for the Estate of Eugene Robinson, deceased; the heirs of George Robinson, deceased, who are Carrie Robinson, Recia Lord, and Robin Young; the heir of Willie Robinson, Jr., deceased, who is Leisa Robinson; and the heirs of Evelyn Robinson Randolph, deceased, who are Jerome Randolph, Jr., Lewis E. Randolph, the heirs of Jean Randolph Lewis, deceased, who are Marlon Lewis, Joey Nathan Lewis, and Benita Lewis, the heirs of Carolyn Randolph Copeland,

deceased, who are James K. Copeland, Jr., and Eric G. Copeland, and the heirs of Joan Randolph Wallace, deceased, who are Kimberly Randolph, Michael D. Randolph, and Ramona Randolph, and other unknown heirs.

6. A substantial description of the property is: A CERTAIN lot of land; situate in Jamestown District, James City County, Virginia, being a portion of the tract known as "Mill Neck", situate east of Ironbound Road, bounded and described as follows: Beginning at a point on the easterly side of a 14-foot alley, which point is 364 feet east of Ironbound Road and which point is the northwesterly corner of the lot of George Wallace; thence in a northerly direction along said alley the distance of 125 feet to the southerly line of the lot of Dorothy Bartlett; said lot then extends back in an easterly direction the distance of 175 feet, and is bounded on the north by the Bartlett lot, on the south by the lot of George Wallace, on the west by the said alley, and on the east by the remaining land of Wallace R. Parker; and is a portion of the same property as that conveyed to the said Wallace R. Parker by deed from Samuel Harris and wife, dated May 28, 1889, and recorded in James City Deed Book 5, Page 190.

LESS AND EXCEPT all that certain tract situate in James City County, Virginia as shown and set forth on that plat entitled: "A Plat for Conveyance and Easement to James City County Sanitary District No 3," from: Willie and Eugene Robinson, dated February 18, 1975, Revised March 1, 1976, made by Deward M. Martin and Associates, Inc., Drawing No J02-11-0, under that certain Certificate of Take, recorded April 8, 1976, in Deed Book 167, Page 725.

LESS AND EXCEPT all that certain lot, piece or parcel of land lying and situate in Berkeley District, James City County, Virginia, shown and designated as Parcel A (New R/W 0.005 acre +), Parcel B (Exist. Private R/W) and Parcel C (Slope Easement) on that certain plat entitled "PLAT FOR CONVEYANCE AND DEDICATION OF RIGHT- OF-WAY, FROM: WILLIE AND EUGENE ROBINSON, TO: JAMES CITY COUNTY, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated January 1980, Job #J05-109, made by Small Engineering, Inc., Williamsburg, Virginia, under that certain Certificate of Take, dated August 12, 1980, recorded in Deed Book 205, Page 526.

It being the same property conveyed to Willie Robinson and Eugene Robinson, by deed from Wallace R. Parker, single, dated May 2, 1949, recorded November 20, 1950, in Deed Book 44, Page 184.

7. Just compensation is estimated to be \$22,500 based upon an appraisal.
8. No condemnation proceedings shall be commenced until the preconditions of §15.2-1903(A), Code of Virginia (1950), as amended, have been met.
9. In the event any of the property described in Paragraph 6 of this resolution has been conveyed, the County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan are authorized and directed to institute proceedings against the successors in title.
10. That an emergency is declared to exist, and this resolution shall be effect from the date of its passage.

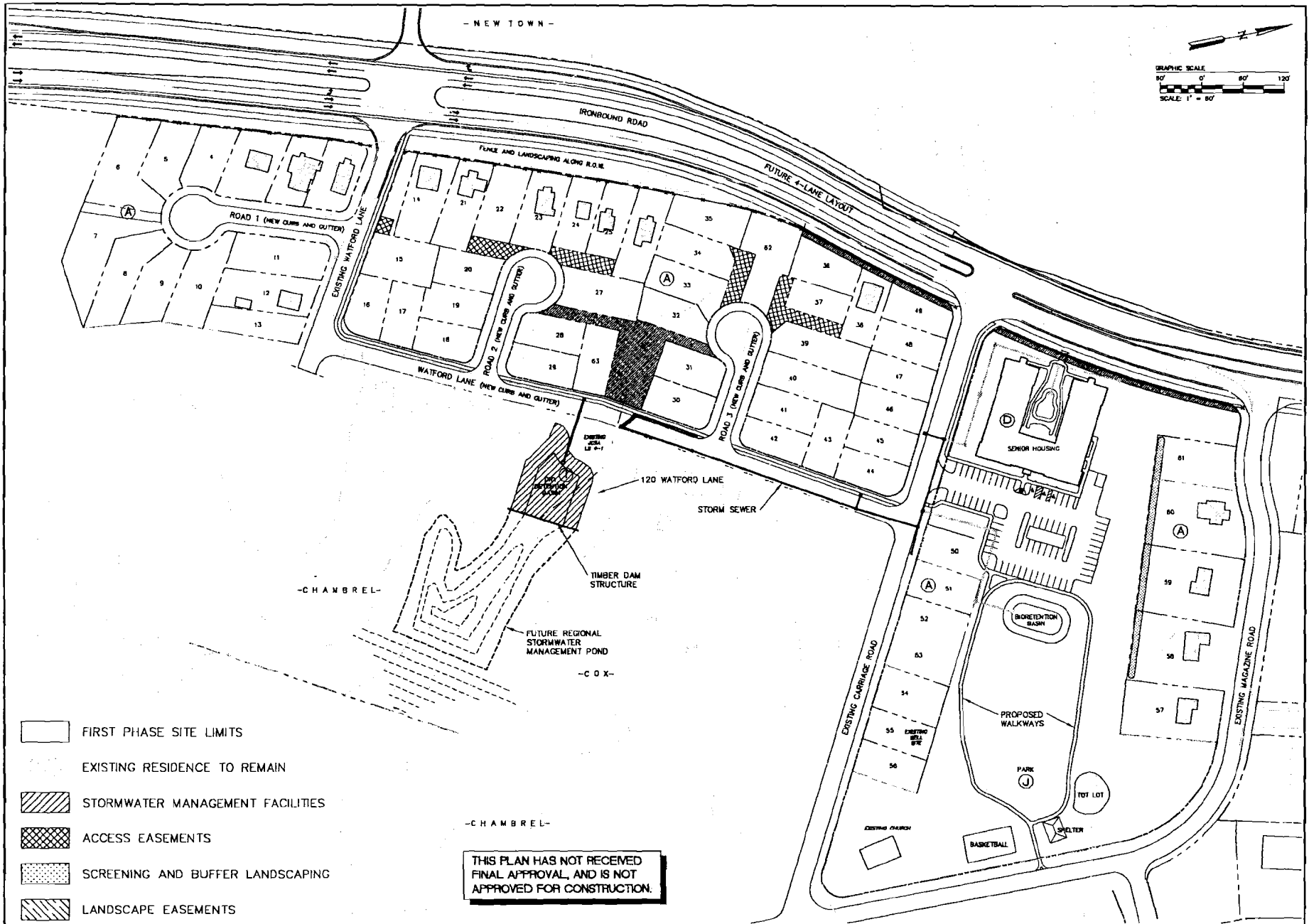
Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

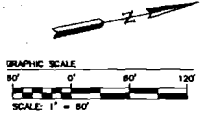
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of
October, 2005.

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THIS PLAN HAS NOT RECEIVED FINAL APPROVAL, AND IS NOT APPROVED FOR CONSTRUCTION.



5246 Old Towne Road, Suite 1
Williamsburg, Virginia 23188
(757) 252-0040
Fax (757) 232-9894



CONCEPTUAL PLAN
IRONBOUND SQUARE
PRELIMINARY ENGINEERING REPORT
BONELLI DISTRICT JAMES CITY COUNTY VIRGINIA

Designer	JSP/ABS	Checker	KSU/BMC
Scale	1"=80'	Date	3/18/05
Project No.	8014	Sheet No.	1 OF 1
Drawing No.			